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09/534,592	03/27/2000	Rabindranath Dutta	AUS000003US1	4528

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Intellectual Property Law
P.O Box 969
Austin, TX 78767-0969

EXAMINER

NGUYEN, THU HA T

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 12/01/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/534,592

Applicant(s)

DUTTA, RABINDRANATH

Examiner

Thu Ha T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims **1-24** are presented for examination.

Response to Arguments

2. Applicant's arguments filed on September 17, 2003 have been fully considered but they are not persuasive because of the following reasons:

3. Applicant argues that Farber does not teach or suggest the step of sending to the client a file requesting that the client contact the a load distribution server. In response to applicant's argument, examiner asserts that Farber does teach the step of sending to the client a file requesting that the client contact the a load distribution server as shown in figure 2, col. 7 lines 19-col. 8 lines 67.

4. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Farber substantially teaches the original server (102) or a reflector (108) sends back to the client a redirect response which contains a new URL that the client contact with another server (figure 2, col. 7 lines 19-col. 8 lines 67). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that

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Farber implicitly discloses the original server (102) or a reflector (108) sends back to the client a redirect response which contains a new URL that the client contact with another server or repeater equivalent to the step of sending to the client a file requesting that the client contact the load distribution server disclosed in the applicant's specification. A person of ordinary skill in the art would have recognized that Farber performs the same function in substantially the same way to reach substantially the same result that is to balance the load and reduce the traffic on servers as tough by Farber.

5. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the reason to include the step of offering in the file requesting that the client contact the load distribution server a means to update a bookmark file to include the load distribution server because it would have an efficient communications system that can keep track and notify the change of URL or file so that the user can update bookmark with the new URL or file that includes in the notify message.

6. Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter broadly recited in independent claims 1, 9, and 17. Claims 2-8, 10-16, and 18-24 are also rejected at least by virtue of their dependency on independent

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claims and by other reasons set forth in the previous office action [see paper no. 4].

Accordingly, claims 1-24 are rejected.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3, 7-11, 15-19 and 23-24 rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Farber et al.**, (hereinafter Farber) U.S. Patent No. **6,185,598**.

9. As to claim 1, **Farber** teaches the invention substantially as claimed, including a method of preventing a client from directly contacting a server that is protected by a load distribution server from an overload of traffic, comprising: determining whether the client's request to receive a file from the content server originated as a reference from the load distribution server or as a reference from the content server itself (col. 7 lines 56-col. 8 lines 25); and responsive to determining that the client's request to receive the file from the content server did not originate as the reference from the load distribution server or as the reference from the content server

itself, sending to the client a file requesting that the client contact the load distribution server (col. 7 lines 19-col. 35, col. 8 lines 20-67, col. 10 lines 14-67). **Farber** does not explicitly teach the step of sending to the client a file requesting that the client contact the load distribution server; however, **Farber** substantially teaches the original server (102) or a reflector (108) sends back to the client a redirect response which contains a new URL that the client contact with another server (figure 2, col. 7 lines 19-col. 8 lines 67). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Farber** implicitly discloses the original server (102) or a reflector (108) sends back to the client a redirect response which contains a new URL that the client contact with another server or repeater equivalent to the step of sending to the client a file requesting that the client contact the load distribution server disclosed in the applicant's specification. A person of ordinary skill in the art would have recognized that **Farber** performs the same function in substantially the same way to reach substantially the same result.

10. As to claim 2, **Farber** teaches the invention substantially as claimed, further comprising: responsive to determining that the request to receive the file from the content server did originate as the reference from the load distribution server or as the reference from the content server itself, sending to the client the file requested (col. 7 lines 19-col. 35, col. 8 lines 20-67, col. 10 lines 14-67).

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11. As to claim 3, **Farber** teaches the invention substantially as claimed, further comprising: including in the file requesting that the client contact the load distribution server a means by which the client may directly contact the load distribution server through an initiative of a user of the client (col. 7 lines 19-col. 8 lines 53, col. 10 lines 13-67).

12. As to claim 7, **Farber** teaches the invention substantially as claimed, further comprising: including in the file requesting that the client contact the load distribution server a means by which the client will contact the load distribution server without intervention of the user (figure 2, col. 7 lines 25-35).

13. As to claim 8, **Farber** teaches the invention substantially as claimed, further comprising: including in the file requesting that the client contact the load distribution server a means by which to allow the user of the client sufficient time to read and react to the file requesting that the user of the client contact the load distribution server before contact with the load distribution server is established without intervention of the user (figure 2, col. 7 lines 25-35, col. 10 lines 39-67). It would be obvious to one of ordinary skill in the art when a server sends a reply or notify or request to client that allows client has sufficient time to read and react to the reply or notify.

14. As to claim 9, **Farber** teaches the invention substantially as claimed, including a computer program product for preventing a client from directly contacting a

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server that is protected by a load distribution server from an overload of traffic, comprising: instructions for determining whether the client's request to receive a file from the content server originated as a reference from the load distribution server or as a reference from the content server itself (col. 7 lines 56-col. 8 lines 25); and instructions for, responsive to determining that the client's request to receive the file from the content server did not originate as the reference from the load distribution server or as the reference from the content server itself, sending to the client a file requesting that the client contact the load distribution server (col. 7 lines 19-col. 35, col. 8 lines 20-67, col. 10 lines 14-67). **Farber** does not explicitly teach the step of sending to the client a file requesting that the client contact the load distribution server; however, **Farber** substantially teaches the original server (102) or a reflector (108) sends back to the client a redirect response which contains a new URL that the client contact with another server (figure 2, col. 7 lines 19-col. 8 lines 67). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Farber** implicitly discloses the original server (102) or a reflector (108) sends back to the client a redirect response which contains a new URL that the client contact with another server or repeater equivalent to the step of sending to the client a file requesting that the client contact the load distribution server disclosed in the applicant's specification. A person of ordinary skill in the art would have recognized that **Farber** performs the same function in substantially the same way to reach substantially the same result.

15. As to claim 17, **Farber** teaches the invention substantially as claimed, including a system of preventing a client from directly contacting a server that is protected by a load distribution server from an overload of traffic, comprising: means for determining whether the client's request to receive a file from the content server originated as a reference from the load distribution server or as a reference from the content server itself (col. 7 lines 56-col. 8 lines 25); means for, responsive to determining that the client's request to receive the file from the content server did not originate as the reference from the load distribution server or as the reference from the content server itself, sending to the client a file requesting that the client contact the load distribution server (col. 7 lines 19-col. 35, col. 8 lines 20-67, col. 10 lines 14-67). **Farber** does not explicitly teach the step of sending to the client a file requesting that the client contact the load distribution server; however, **Farber** substantially teaches the original server (102) or a reflector (108) sends back to the client a redirect response which contains a new URL that the client contact with another server (figure 2, col. 7 lines 19-col. 8 lines 67). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Farber** implicitly discloses the original server (102) or a reflector (108) sends back to the client a redirect response which contains a new URL that the client contact with another server or repeater equivalent to the step of sending to the client a file requesting that the client contact the load distribution server disclosed in the applicant's specification. A person of ordinary skill in the art would have recognized that **Farber** performs the same function in substantially the same way to reach substantially the same result.

16. Claims 10-11, 15-16, 18-19, and 23-24 have similar limitations as claims 2-3, and 7-8; therefore, they are rejected under the same rationale.

17. Claims 4-6, 12-14, and 20-22 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Farber et al.**, (hereinafter Farber) U.S. Patent No. **6,185,598**, in view of **Nielsen** U.S. Patent No. **5,813,007**.

18. As to claim 4, **Farber** does not explicitly teach the invention substantially as claimed; however, **Nielsen** teaches the step of offering in the file requesting that the client contact the load distribution server a means to update a bookmark file to include the load distribution server (abstract, figure 10, col. 12 lines 48-col. 13 lines 61). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of **Farber and Nielsen** to have the step of offering in the file requesting that the client contact the load distribution server a means to update a bookmark file to include the load distribution server because it would have an efficient communications system that can keep track and notify the change of URL or file so that the user can update bookmark with the new URL or file that includes in the notify message.

19. As to claim 5, **Farber** does not explicitly teach the invention as claimed; however, **Nielsen** teaches the step of offering in the file requesting that the client

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contact the load distribution server a means to update the bookmark file to exclude the protected server (abstract, figures 10, 11, col. 13 lines 55-col. 14 lines 16). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of **Farber and Nielsen** to have the same motivation as set forth in claim 4.

20. As to claim 6, **Farber** does not explicitly teach the invention as claimed; however, **Nielsen** teaches the step of offering in the means to update the client's bookmark file to include the load distribution server a means to update the bookmark file to exclude the protected server (abstract, figures 10, 11, col. 12 lines 48-col. 14 lines 16). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of **Farber and Nielsen** to have the same motivation as set forth in claim 4.

21. Claims 12-14 and 20-22 have similar limitations as claims 4-6 therefore; they are rejected under the same rationale.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Ha Nguyen, whose telephone number is (703) 305-7447. The examiner can normally be reached Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam, can be reached at (703) 308-6662.

Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications.

Thu Ha Nguyen

November 25, 2003



HOSAIN ALAM
SUPERVISORY PATENT EXAMINER